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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Application and Claims

Claim 20-25, 30-33 and 36 are pending in this application and have been finally rejected in the final Office Action dated October 24, 2008. Applicants filed a response to the final Office Action on December 24, 2008, and the USPTO issued an Advisory Action on January 12, 2009 stating that the amendments therein would not be entered. .

Claim 22 has been amended herein. Applicants respectfully assert that the amendments to the claims add no new matter.

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 22-25 and 30-36 under 35 U.S.C. § 103(a), as being unpatentable over Marshall (U.S. Patent No. 6,228,605 B1) in view of Iddan et al. (U.S. Patent No. 5,604,531) and the Leppaniemi et al. article. Applicants respectfully traverse this rejection.

Marshall teaches a method for the *in vivo* detection of *H. pylori*, and the Examiner states that Marshall teaches all the steps of independent claim 22 except the autonomous *in vivo* sensing device, wherein the sensing is done by radio frequency and rotating the patient to cause the *in vivo* device to contact at least one location of the upper GI tract. The Examiner states that Iddan et al. discloses an autonomous *in vivo* sensing device, wherein the sensing is done by radio frequency, and that the Leppaniemi et al. article discloses rotating the patient during a diagnostic laproscopic medical procedures.

Applicants note that independent claim 22 has been amended herein to include that the autonomous *in vivo* sensing device comprises a pH-sensitive color-changing material

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placed on a device's optical window and a magnetic element. Independent claim 22 has further been amended herein to recite the step of "sensing pH at the location of the upper gastrointestinal tract using said pH-sensitive color-changing material". Applicants note that these limitations find literal support in the application as filed at page 6, line 4 - page 7, line 3, and in Figure 1 as filed.

Independent claim 22 has also been amended herein to delete the recitation of rotation of the patient and to instead recite the step of "moving the autonomous *in vivo* device to contact at least one location of the upper gastrointestinal tract by an external magnetic field which moves said magnetic element". Applicants note that this limitation finds literal support in the application as filed at page 9, lines 19-22.

Applicants note that none of Marshall, Iddan or the Leppaniemi et al. article discloses or suggests that the sensing device comprises a pH-sensitive color-changing material on its optical window or a magnetic element therein. In addition, none of Marshall, Iddan or the Leppaniemi et al. article discloses or suggests moving the *in vivo* device to contact at least one location of the upper gastrointestinal tract by an external magnetic field which moves said magnetic element. Furthermore, none of Marshall, Iddan or the Leppaniemi et al. article discloses or suggests sensing pH at the location of the upper gastrointestinal tract using a pH-sensitive color-changing material.

Accordingly, amended independent claim 22 is not obvious over Marshall in view of Iddan and the Leppaniemi et al. article.

Claims 23-25, 30-33 and 36 include all the limitations of amended independent claim 22 and are therefore also not obvious over Marshall in view of Iddan and the Leppaniemi et al. article. Applicants respectfully request that this rejection be withdrawn.

Double Patenting Rejection

Claims 22-25, 30-33 and 36 are provisionally rejected for obviousness-type double patenting as being unpatentable over claims 18-21 of U.S. Patent Application No. 10/524,553 (common inventor, same assignee). According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other.

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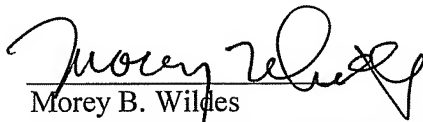
Applicants note that U.S. Patent Application No. 10/524,553 is still pending such that the obviousness-type double patenting rejection is only provisional as of now. Applicants again advise the Examiner that they will file a terminal disclaimer to overcome this obviousness-type double patenting rejection when claims of this application are held allowable and when U.S. Patent Application No. 10/524,553 has been held allowable or issues as a patent.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


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